



FEDERAL TRADE COMMISSION
Agency Information Collection Activities;
Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Federal Trade Commission (FTC or Commission) is seeking public comment on its proposal to extend for an additional three years the Office of Management and Budget clearance for information collection requirements in its Fuel Rating Rule (the Rule). The current clearance expires on September 30, 2023.

DATES: Comments must be filed by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Fuel Rating Rule, PRA Comment, P145403,” on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Room CC-9528, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2889.

SUPPLEMENTARY INFORMATION:

Title: Fuel Rating Rule (the Rule), 16 CFR part 306.

OMB Control Number: 3084-0068.

Type of Review: Extension of a currently approved collection.

Likely Respondents:

(a) Recordkeeping: Refiners, Producers, Importers, Distributors, and Retailers of the Covered Fuel Types.

(b) Disclosure: Retailers of the Covered Fuel Types.

Estimated Annual Burden Hours: 31,976 (derived from 13,043 recordkeeping hours added to 18,933 disclosure hours).

Estimated Annual Labor Costs: \$453,627.

Estimated Annual Capital or Other Non-labor Costs: \$104,131.

Abstract:

The Fuel Rating Rule, 16 CFR part 306 (OMB Control Number: 3084-0068), establishes standard procedures for determining, certifying, and disclosing the octane rating of automotive gasoline and the automotive fuel rating of alternative liquid automotive fuels, as required by the Petroleum Marketing Practices Act. 15 U.S.C. 2822(a)-(c). The Rule also requires refiners, producers, importers, distributors, and retailers to retain records showing how the ratings were determined, including delivery tickets or letters of certification.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Rule.

Burden statement:

Estimated annual burden hours: 31,976 (derived from 13,043 recordkeeping hours added to 18,933 disclosure hours).

Recordkeeping: Based on industry sources, staff estimates that approximately 156,515 fuel industry members¹ each incur an average annual burden of approximately five minutes to ensure retention of relevant business records² for the period required by the Rule, resulting in a total of 13,043 hours.

Disclosure: Staff estimates that affected industry members incur an average burden of approximately one hour to produce, distribute, and post octane rating labels. Because the labels are durable, only about one of every eight industry member retailers (18,933 of 151,463 industry member retailers) incur this burden each year, resulting in a total annual burden of 18,933 hours.

Estimated annual labor costs: \$453,627.

Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. Here, the average hourly wages of refiners, producers, distributors, and importers is \$38.14.³ The average hourly wages of retailers is \$13.86.⁴ The recordkeeping component, 13,043 hours, consists of approximately 430 hours for producers, distributors, and importers; and 12,613 hours for retailers. Thus, the total annual labor cost for recordkeeping is \$191,216 ((430 hours x \$38.14/hour) + (12,613 hours x \$13.86/hour)). The disclosure

¹ Staff derived the number of fuel industry members by adding the number of refiners, producers, importers, distributors, and retailers of these types of fuel. Staff consulted government agencies and industry sources in estimating a population of approximately 156,515 fuel industry members, including 151,463 retailers of automotive fuel. Some of the government websites reviewed to update these numbers include: http://www.eia.gov/dnav/pet/pet_pnp_cap1_dcu_nus_a.htm (Gasoline Producers); <http://www.eia.gov/biofuels/biodiesel/production/> (Biodiesel Producers); <http://www.afdc.energy.gov/fuels/> (Alternative Fuel Stations); http://www.nacsonline.com/YourBusiness/FuelsReports/2015/Documents/2015-NACS-Fuels-Report_full.pdf (Petroleum Stations).

² Under the Fuel Rating Rule, refiners, producers, importers, distributors, and retailers of automotive fuel must retain, for one year, records of any delivery tickets, letters of certification, or tests upon which they based the automotive fuel ratings that they certify or post. See the Fuel Rating Rule's recordkeeping requirements, 16 CFR 306.7; 306.9; and 306.11.

³ See <http://www.bls.gov/iag/tgs/iag211.htm#earnings> (Bureau of Labor Statistics, 2021 Occupational Employment Statistics, Hourly mean wages for petroleum pump system operators, refinery operators, and gaugers).

⁴ See <http://www.bls.gov/iag/tgs/iag447.htm> (Bureau of Labor Statistics, 2021 Occupational Employment Statistics, Hourly mean wages for service station attendants).

component, which concerns retailers, is approximately 18,933 hours. Thus, total annual labor cost for disclosure is \$262,411 (18,933 hours x \$13.86/hour).

Estimated annual non-labor costs: \$75,732.

Staff believes that the Rule does not impose any capital costs for producers, importers, or distributors of fuels. Retailers, however, incur the cost of procuring and replacing fuel dispenser labels to comply with the Rule. Staff conservatively estimates that the price per automotive fuel label is \$2.77 and that the average automotive fuel retailer has six dispensers; thus, \$16.62 labeling cost at inception per retailer.⁵ Staff has previously estimated a dispenser useful life range of 6 to 10 years and, based on that, assumed a useful life of 8 years for labels, the mean of that range. Given that, replacement labeling will not be necessary for well beyond the relevant period at issue, *i.e.*, the immediate 3-year PRA clearance sought. However, conservatively annualizing the \$16.62 labeling cost at inception per retailer over that shorter period rather than average useful life, annualized labeling cost per retailer will be \$5.50. Cumulative labeling cost would thus be \$104,131 (151,463 retailers × 1/8⁶ x \$5.50 each, annualized).

Request for Comment:

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information.

For the FTC to consider a comment, we must receive it on or before [INSERT DATE 60

⁵ See 75 FR 12,470, 12,477 (Mar. 16, 2010) (proposed rulemaking) (estimating the price range per pump to be one to two dollars). Then you factor in inflation since 2010. See https://www.bls.gov/data/inflation_calculator.htm.

⁶ On average, each label needs to be replaced once every 8 years. Annualizing this cost equates to 1/8 or 0.125.

DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

You can file a comment online or on paper. Due to the public health emergency in response to the COVID-19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you file your comment on paper, write "Fuel Rating Rule, PRA Comment, P145403," on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will become publicly available at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential"—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices,

manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must (1) be filed in paper form, (2) be clearly labeled “Confidential,” and (3) comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at www.regulations.gov, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2023-09277 Filed: 5/1/2023 8:45 am; Publication Date: 5/2/2023]